REMARKS

Applicant has canceled claim 1 and has amended claim 3 to incorporate the limitations of claim 4, which has now been canceled. Claims 8-11, which relate to "multilayered liposomes" and not to the method of preparation, have been canceled.

The remaining claims 3, 6, and 7 are all limited to a method for preparing multilayered liposomes for transdermal adsorption, with claim 3 further limited by the concentrations as set forth in previous claim 4.

The rejection of claims 1, 3-4, and 6-11 under 35 USC 103(a) as being unpatentable over Popp (US Pub. 2006/0029657) in combination with Foldvari (USP 5,853,766) and/or in combination with Needham (US Pub. 2002/01202298) is respectfully traversed.

The Examiner is alleging that the reference Popp implicitly teaches a method for the preparation of multilayered liposomes even though "multilayered liposomes" is not mentioned and the method is not suggested. The present invention is limited to a method in which multilayered liposomes are prepared for transdermal absorption, which requires fatty acids and specifies that multilayered liposomes will be formed upon agitation of the composition without the use of a high-pressure homogenizer. Applicant has discovered in accordance with the present invention that a mixture of oil phase components comprising squalane, sterols, ceramide, neutral lipids or oils, fatty acids in an amount of from 0.1 to 20.0 wt. % based on the total weight of the liposomes, and lecithins permit multilayered liposomes to be formed upon agitation of the composition within a range of 500 t0 9000 rpm without the use of a high pressure homogenizer.

There is no teaching in Popp or any suggestion in Popp for producing multilayered liposomes much less that multilayered liposomes can be stably produced without using a high pressure homogenizer by following the method steps in claim 3. Since there is no teaching in Popp of the conditions to prepare multilayered liposomes, and no teaching of a fatty acid component, the method of claim 3 is clearly not obvious from the teaching of Popp and no basis exits for the allegation that this method is implicit. A naked allegation without any foundation does not satisfy the requirements in the MPEP Section 2144.01 for "implicit disclosure".

It should be noted that claim 3 has been amended to define the oil phase components needed to produce multilayered liposomes without the use of a high pressure homogenizer. This is significant to the subject invention in that the prior art requires a high pressure homogenizer to prepare multilayered liposomes which results in instability as known to those skilled in the art. Accordingly, the method of claim 3 as now amended is clearly patentable over the teaching of Popp taken alone or in combination with Foldvari and Needham and the rejection under 35 USC 103(a) should be withdrawn.

Claims 6 and 7 are dependent upon claim 3 and are believed patentable over the cited references for the same reasons as given above.

For all of the above reasons, claims 3 and 6 and 7 are now clearly patentable over the cited prior art and the rejection thereof under 35 USC 103,should be withdrawn.

Reconsideration and allowance of claims 3, 6 and 7 is respectfully solicited.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this Amendment is being submitted to the USPTO via EFS-Web addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450, on October 25, 2010.

By _____
Audrey de Souza